

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI

UNITED STATES OF AMERICA)
Plaintiff,) Case No. 2:22-cv-04027-MDH
v.)
JOHN HUGO EICKHOFF, JR.,)
RHONDA KAYE EICKHOFF,)
HOFFMAN ASSOCIATES, LLC,)
ARIC ELLIOT SCHREINER,)
COLUMBIA CPA GROUP LLC,)
JOHN WILLIAM GRAY II, and)
DAMON THOMAS EISMA, individually)
and d/b/a DAMON T. EISMA)
ATTORNEY AT LAW,)
Defendants.)

)

**UNITED STATES' MOTION TO STRIKE
AFFIRMATIVE DEFENSES ASSERTED BY
DEFENDANT HOFFMAN ASSOCIATES, LLC**

The United States respectfully moves the Court for an order, pursuant to Fed. R. Civ. P. 12(f), striking affirmative defenses asserted by Defendant Hoffman Associates, LLC (“Hoffman”) in its Answer (Doc. No. 55) to the Amended Complaint. Specifically, the United States moves to strike from Hoffman’s Answer the following affirmative defenses: statute of limitations (p. 67, ¶ 3), laches (p. 67, ¶ 6), estoppel (p. 67, ¶ 7), and waiver (p. 67, ¶ 8). As explained below, the defense of laches is not cognizable against the United States when it seeks to enforce its rights. There is no applicable statute of limitations, and the defenses of estoppel and waiver are likewise inapposite.

STATEMENT & ARGUMENT

1. On July 21, 2022, the United States moved to strike each of these affirmative defenses asserted in answers filed by other defendants in this action. (Doc. No. 51.)
2. On July 25, 2022, Hoffman filed its Answer to the Amended Complaint. (Doc. No. 55.)
3. Hoffman's assertion of these affirmative defenses fails on identical grounds addressed in the United States' Motion to Strike Affirmative Defenses filed on July 21, 2022. (Doc. No. 51.) In the interests of judicial economy, the United States' motion and brief is incorporated herein as if fully set forth below. As addressed in greater detail in the United States' July 21, 2022 Motion to Strike:

- a. Laches is not available as an affirmative defense in this civil law enforcement action under any set of factual allegations.
- b. Estoppel and waiver are rarely available in litigation against the United States, and Hoffman's assertions of those defenses fail to provide even minimal notice to the United States.
- c. Hoffman's affirmative defense of statute of limitations lacks any factual allegations, fails to identify which claims or relief Hoffman contends are barred by the defense, and is unavailable as a matter of law.
- d. An order striking these affirmative defenses from Hoffman's Answer would avoid the risk of wasting the Court's and the United States' efforts and resources addressing irrelevant issues during discovery, at summary judgment, or at trial.

WHEREFORE, pursuant to Fed. R. Civ. P. 12(f) and the reasons addressed in the United States' Motion to Strike (Doc. No. 51), the United States requests that the Court strike the

affirmative defenses of statute of limitations, laches, estoppel, and waiver from Defendant Hoffman Associates, LLC's Answer to the Amended Complaint.

Dated: August 1, 2022

Respectfully submitted,

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/s/ *Russell J. Edelstein*
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